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In re Application of :  
Yoshihiko FUNAKOSHI, et al :  
Application No.: 09/926,811 :  
PCT No.: PCT/JP01/02420 : COMMUNICATION  
Int. Filing Date: 26 March 2001 :  
Priority Date: 25 April 2000 :  
Attorney Docket No.: 217206US3PCT :  
For: RADIOACTIVE SUBSTANCE CONTAINER, :  
... METHOD THEREOF :

This is in response to applicants' submission "RESPONSE TO NOTICE TO FILE MISSING REQUIREMENTS" filed 01 July 2002. This submission states that the correct spelling of the sixth inventor's first given name is Yoshiharu, and that the published PCT application, which incorrectly indicated the first given name of the sixth inventor as Ryouji.

### **BACKGROUND**

On 26 March 2001, applicants filed international application No. PCT/JP01/02420, which claims a priority date of 25 April 2000. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 01 November 2001. No Demand electing the United States was filed in this international application. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.494 was 25 December 2001.

On 21 December 2001, applicants filed in the United States Patent and Trademark Office (PTO) a Transmittal Letter accompanied by, *inter alia*, the basic national fee. No executed oath or declaration was submitted at such time.

On 24 January 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, *inter alia*, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.497(a) and(b), identifying the application by International application number and international filing date" must be submitted within two months from its 24 January 2002 date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 22 March 2002, applicants submitted an executed declaration of the inventors. In the "Full name of sixth inventor (given name) " line of the declaration pertaining to the sixth named inventor, the name Yoshiharu appears; this first given name did not appeared in the international application.

On 30 May 2002, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF A DEFECTIVE RESPONSE" (Form PCT/DO/EO/905) because the declaration was in not compliance with 37 CFR 1.497(a) and (b).

On 01 July 2002 applicant filed the "RESPONSE TO NOTICE TO FILE MISSING REQUIREMENTS." This submission states that the correct spelling of the sixth inventor's first given name is Yoshiharu

### **DISCUSSION**

The submission states that the correct name of the sixth inventor is "Yoshiharu TAURA" and not "Ryouji TAURA" as published in PCT application WO01/82308 A1, which was the result of a translation error. The correct name will be reflected in the US national stage processing. See MPEP 605.04(b).

The declarations, however, are defective because 37 CFR 1.63 requires that the declaration must identify each inventor. In this case the first declaration does not identify the second set of inventors (inventors Yoshiharu TAURA through Toshihiro MATSUOKA) and the second declaration does not identify the first set of joint inventors (inventors Yoshihiko FUNAKOSHI through Chikayuki MATSUMOTO).

Consequently, the Combined Declarations and Power of Attorney submitted on 22 March 2002 are defective because the declarations are incomplete as to identifying each inventor. As a result the declarations do not comply with 37 CFR 1.63. Note MPEP 602.


### **CONCLUSION**

Applicant's response is accepted as a sufficient response to the Notification of Missing Requirements (FORM PCT/DO/EO/905) mailed on 30 May 2002.

However, for the reasons above, the application may not enter into national stage processing at this time.

A proper response must be filed within TWO (2) MONTHS from the mail date of this decision.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, DC 20231, and address the contents of the letter to the attention of the PCT Legal Office.



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